PROTEST DISMISSAL AGREEMENT BETWEEN DELTA WETLANDS PROPERTIES AND EAST BAY MUNICIPAL UTILITY DISTRICT

This Protest Dismissal Agreement is entered into and effective this 13th day of Sept., 2000, by and among Delta Wetlands Properties ("Delta Wetlands") and the East Bay Municipal Utility District ("EBMUD").

RECITALS

WHEREAS, Delta Wetlands has applied to the State Water Resources Control Board to appropriate water pursuant to Application Nos. 29062, 29066, 30268 and 30270 and petitions for change thereto ("Delta Wetlands Applications");

WHEREAS, EBMUD filed with the State Water Resources Control Board a protest of the Delta Wetlands Applications, said protest based upon (a) fishery and (b) levee and Mokelumne Aqueduct security grounds;

WHEREAS, the State Water Resources Control Board has conducted a hearing on the Delta Wetlands Applications and will resume the hearing on October 10, 2000;

WHEREAS, EBMUD has appeared as a protestant and an interested party in the hearing on the Delta Wetlands Applications;

WHEREAS, Delta Wetlands and EBMUD desire to resolve issues between them regarding the Delta Wetlands Applications;

WHEREAS, EBMUD has implemented and continues to implement a comprehensive program to protect and enhance the lower Mokelumne River anadromous fishery; to further protect that fishery, EBMUD and Delta Wetlands wish to ensure that Delta Wetlands implements measures to minimize potential Delta Wetlands Project impacts upon that fishery;

WHEREAS, Delta Wetlands wishes to ensure the security of its Bacon Island and Webb Tract reservoir island levees and seepage control systems;

WHEREAS, EBMUD owns and operates the Mokelumne Aqueducts, which convey water across the Delta to supply EBMUD's East San Francisco Bay service area with approximately 95% of its water;

WHEREAS, Bacon Island, a proposed reservoir island of the Delta Wetlands Project, is located just north of and adjacent to the Mokelumne Aqueducts as they pass through the Delta;

WHEREAS, EBMUD wishes to ensure that the Bacon Island levees are secure and do not fail and that the levees on adjacent islands around Bacon Island are not damaged by the Project, either of which EBMUD contends could damage or destroy the Mokelumne Aqueducts; and

WHEREAS, EBMUD wishes to ensure that all seepage from Delta Wetlands' reservoir operations on Bacon Island to neighboring islands is controlled to prevent damage to the Mokelumne Aqueducts;

NOW, THEREFORE, the parties agree as follows:

1. Delta Wetlands and EBMUD agree to present Attachment A, Fisheries Terms and Conditions, Attachment B, Geotechnical Terms and Conditions, and Attachment C, Delta Wetlands Seepage Control Plan, to the State Water Resources Control Board and to support inclusion of those terms and conditions in any and all permits or licenses issued by the State Water Resources Control Board for the Delta Wetlands Project, including any permits or licenses issued pursuant to Application Nos. 29062, 29066, 30268 and 30270.

2. EBMUD agrees not to oppose the issuance of water right permits or licenses to Delta Wetlands pursuant to the Delta Wetlands Applications and agrees to withdraw its protest on the condition that the terms and conditions contained herein as Attachments A, B and C are included in such permits and licenses where applicable.

3. Whether or not the State Water Resources Control Board includes the terms and conditions contained in Attachments A, B and C, Delta Wetlands and its successors shall be subject to and comply with the terms, conditions and requirements of Attachments A, B and C, including the procedures regarding the Design Review Board and the Monitoring and Action Board.

4. At the resumed water rights hearing on its applications, Delta Wetlands will offer this Agreement into evidence as part of its submission to the State Water Resources Control Board.

5. EBMUD may elect to participate in the Delta Wetlands Project Fishery Technical Advisory Committee. Delta Wetlands shall notify the Department of Fish and Game that EBMUD may participate on the Technical Advisory Committee and is to be provided notice of all Technical Advisory Committee meetings and discussions.

6. This Agreement shall be binding upon and inure to the benefit of the successors in interest and legal representatives of the respective parties.

7. All changes or modifications to this Agreement shall be in writing and signed by EBMUD and Delta Wetlands or their successors.

8. The signatories hereto represent that they are authorized to enter into this Agreement on behalf of the party for whom they sign. This document may be executed in duplicate originals.

DELTA WETLANDS PROPERTIES, an Illinois general partnership

By: KLMLP, L.P., a Delaware limited partnership, Special Partner

By: ZKS Real Estate Partners, LLC, a Delaware limited liability company, its authorized agent.

Dated: Sep 7, 2000

By _____
Frederick L. Stephens, President

EAST BAY MUNICIPAL UTILITY DISTRICT

Dated: 9/14/00

By _____
Dennis M. Diemer, General Manager

ATTACHMENT A
FISHERIES TERMS AND CONDITIONS

Webb Tract Operations

From January 1 to June 30, Permittee's Webb Tract operations shall be in accordance with the following diversion protocol:

1. Diversions to storage shall be made through the southeastern siphon station, except that;

2. Only after the southeastern station siphon is operating at full capacity, or in excess of 90% of full capacity due to maintenance and repair, may diversions to storage be made through the northeastern siphon station;

3. Any reductions in diversions to storage shall first be accomplished by curtailing diversions at the northeastern siphon station. Only after diversions to storage at the northeastern siphon station are reduced to less than 50 cfs shall reductions in diversions begin at the southeastern station.

4. Permittee may operate the northeastern siphon station only when diversions through the southeastern siphon station are projected to be insufficient to completely fill storage on Webb Tract within 30 days. Permittee shall then operate the northeastern siphon station at or below the rates projected to fill said storage by the end of this same 30-day period. Permittee shall report Webb Tract diversion rates and storage amounts to the Technical Advisory Committee on an annual and monthly basis, in accordance with the provisions outlined in the Water Quality Management Plan or other applicable terms and conditions.

5. This diversion operations protocol is not applicable (1) if the U.S. Fish and Wildlife Service ("USFWS") determines that delta smelt eggs, larvae, juvenile or adult life stages are found at the Webb Tract southeastern siphon monitoring stations, as set forth in the USFWS Final Biological Opinion, or (2) if the 3-day running average of salinity or dissolved organic carbon ("DOC") at the northeastern siphon station is more than 10% lower than the 3-day running average of salinity or DOC at the southeastern siphon station. This 10% salinity/DOC exception to the protocol is not expected to occur more than once every five years. If, however, this 10% salinity/DOC exception occurs more frequently than once every five years, then the diversions at the northeastern siphon station resulting from this exception may not exceed 25 thousand acre feet per year nor exceed a diversion rate of 1,375 cfs, without express written authorization from EBMUD. In the event that this salinity/DOC exception is triggered, Permittee shall reimburse EBMUD up to an additional $5,000 as provided and pursuant to paragraph 16 set forth below.

6. The diversion operations protocol is not applicable during routine repairs and maintenance of the southeastern siphon station, with such exception limited to a maximum of three days per month.

7. Any additional siphons or screening capacity constructed by Permittee will also be subject to the diversion protocol. Any such additional siphons or screening capacity will be added to the southeastern siphon station whenever possible.

Siphon Removal

8. Permittee shall limit the number of existing siphons on Bouldin Island to no more than 14. This will require Permittee to remove a number of existing siphons. This reduction shall be applied uniformly around the island. All remaining siphons shall be screened as set forth in the USFWS' Final Biological Opinion.

9. Permittee shall limit the number of existing siphons on Webb Tract to no more than 7. This will require Permittee to remove a number of existing siphons. This reduction shall be applied uniformly around the island, except that at least 50% of the existing siphons along the San Joaquin River shall be removed so that no more than 4 siphons remain on the San Joaquin River. All remaining siphons shall be screened as set forth in the USFWS' Final Biological Opinion.

10. Permittee shall complete the above-referenced siphon removal prior to beginning diversions on Webb Tract under Permittee's new water rights. Permittee shall provide EBMUD with written notice of removal within thirty days of completion of siphon removal.

Boat Docks

11. Permittee shall limit the addition of new boat docks on the exterior of Bouldin Island to no more than 150. New boat docks on the Mokelumne River shall be limited to no more than 75.

12. Permittee shall limit the addition of new boat docks on the exterior of Webb Tract to no more than 198. New boat docks on the San Joaquin River shall be limited to no more than 30.

13. The location of Permittee's new boat docks on Bouldin Island and Webb Tract shall be based on recommendations by the Technical Advisory Committee with consideration given to the proximity of the proposed new boat docks to proposed new shallow water habitat.

Webb Tract Fisheries Monitoring Program

From January 1 to June 30, Webb Tract diversions to storage from the northeastern siphon station that exceed 50 cfs shall require fishery monitoring as described below:

14. No later than January 1, February 1, and March 1 of each year, Permittee shall provide to EBMUD a monthly operations plan showing when diversions to Webb Tract and Bouldin Island are anticipated to take place for the subsequent four month period.

15. No less than three days prior to commencing diversions which exceed 50 cfs to Webb Tract or Bouldin Island, Permittee shall notify EBMUD of its proposed diversion.

16. In any year when Permittee operates its northeastern Webb Tract diversion station and EBMUD finds juvenile chinook salmon have begun outmigrating from the Mokelumne River as determined by a two-day running average of over 25 fish per day at Woodbridge Dam, Permittee will reimburse EBMUD up to $50,000 per year in year 2000 dollars (adjusted annually for inflation by the Consumer Price Index for All Items - All Urban Consumers for the San Francisco-Oakland-San Jose Metropolitan Statistical Area) for monitoring expenses and the cost to obtain any necessary permits for monitoring in the immediate vicinity of the northeastern Webb Tract diversion station and associated boat docks.

17. Monitoring shall be performed for the first five years of actual operation (these might not be consecutive years) of Permittee's northeastern Webb Tract diversion station. If the Mokelumne River juvenile anadromous fish are not present on the screens of the northeastern diversion structure or are not in the stomachs of predators in the immediate vicinity of the northeastern diversion structure during this period, then no further monitoring shall be required.[1] If, however, Mokelumne River juvenile anadromous fish are present on the screens of the northeastern diversion structure or in the stomachs of predators in the immediate vicinity of the northeastern diversion structure, this monitoring program and its associated mitigation (described in Paragraph 18, below) will continue until such time as the monitoring program fails to detect the presence of these fish for three consecutive years of operation.

18. If this monitoring program identifies that Mokelumne River juvenile anadromous fish are present on the screens of the northeastern diversion structure or in the stomachs of predators in the immediate vicinity of the northeastern diversion structure, Delta Wetlands will immediately reduce its diversions at the northeastern Webb Tract diversion station by 50% of the then current diversion rate, or down to an instantaneous diversion rate of 50 cfs, whichever is greater.

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[1]For purposes of this agreement, Mokelumne River juvenile anadromous fish are any juvenile salmonids bearing an adipose fin clip. In the event tagging techniques are modified by EBMUD, or others, that eliminates the ability to distinguish Mokelumne River juvenile anadromous fish, EBMUD shall notify Permittee and modify this definition to enable proper identification of the Mokelumne River juvenile anadromous fish.

ATTACHMENT B
GEOTECHNICAL TERMS AND CONDITIONS

Reservoir Island Design Review Board ("DRB")

1. Members:

   a. Number: Three.

   b. Qualifications: Registered professional civil engineers with experience providing engineering services in the Sacramento-San Joaquin Bay-Delta. At least one member shall be a geotechnical engineer.

   c. Appointed by: Delta Wetlands Properties ("DW" or "Permittee").

   d. While not members of the Design Review Board ("DRB"), parties such as EBMUD that hold property interests adjacent to Bacon Island or Webb Tract (the Project reservoir islands) or parties that could be substantially affected by the reservoir operations and have appeared in the DW water rights hearing, shall have the ability to participate in DRB meetings, comment on design, and shall be provided a copy of all DRB minutes so that such parties can monitor the design and construction of the Project reservoir islands.

2. Duties: Permittee shall submit Project reservoir island plans and specifications to the DRB. The DRB shall review and comment on the plans and specifications during staged design review and during construction for the Bacon Island and Webb Tract Project improvements, confirming that Project design meets the stated objectives of the Project description as defined in the 2000 Revised Draft Environmental Impact Report/Statement and the Delta Wetlands Seepage Control Plan (Attachment C), including but not limited to: levee factors of safety, wave protection for levees, levee slopes, seepage control, and monitoring programs. Comments of the DRB shall be provided to the SWRCB, Permittee, EBMUD, and to local reclamation districts adjacent to the Project reservoir islands.

3. Compensation: Members of the DRB are to be compensated by Permittee for their time, in an amount up to but not to exceed $300,000. The DRB shall cease to exist once its duties, as set forth in paragraph 2, are completed.

Reservoir Island Monitoring & Action Board ("MAB")

4. Members:

   a. Number: Three, with two alternates.

   b. Qualifications: The two primary members shall be registered professional civil geotechnical engineers with experience providing engineering services in the

Sacramento-San Joaquin Bay-Delta. The third member and the two alternate members shall be licensed professionals with experience in seepage in the Sacramento-San Joaquin Bay-Delta.

c. Appointment Process: The State Water Resources Control Board ("SWRCB") shall appoint one member and DW shall appoint one member. In the event the SWRCB does not so appoint one MAB member, then DW shall instead appoint that member after first meeting and conferring with EBMUD on the independence and objectivity of the proposed appointment and after allowing EBMUD an opportunity to object to the appointment. No appointment of this one MAB member shall be made over the objection of EBMUD. These two members ("primary members") shall appoint the third member and the two alternate members. Any party to the Delta Wetlands SWRCB hearing may provide suggestions to the SWRCB as to who to appoint to the MAB. Each of the MAB members shall be appointed for a term of four years. At the end of the four-year term, the same selection process will be used to select the MAB.

5. Term: The MAB shall be established prior to the first diversions to storage on Bacon Island or Webb Tract and shall continue thereafter for the duration of Project reservoir operations on Bacon Island and/or Webb Tract.

6. Compensation: Members of the MAB are to be compensated by Permittee for their time on an hourly basis. Such costs, including costs of reports which may be prepared and studies which may be undertaken by the MAB shall be part of the annual operation and maintenance costs of the Project.

7. Duties:

a. Permittee shall submit Project monitoring and seepage data to the MAB so that the MAB can fulfill its duties. During the first year of Project reservoir island operations, the MAB shall serve as a neutral technical engineering advisor and shall review monitoring and seepage data at each stage of initial reservoir filling. Following that initial filling, the MAB shall review monitoring and seepage data at a minimum of every three months during the remainder of the first year of Project reservoir island operation.

b. The MAB shall serve as a neutral technical engineering advisory panel, hearing and investigating identified problems purportedly caused by Permittee's reservoir operations, including but not limited to levee weakness, overtopping of levees, levee failure, scour at EBMUD's Mokelumne Aqueduct river crossings, and seepage. The MAB shall also issue Reports containing its recommendations on remedial actions to correct problems, as set forth in paragraph 14.

c. The terms of the Delta Wetlands Seepage Control Plan (Attachment C) may be adjusted over time by the SWRCB as set forth below. The SWRCB reserves jurisdiction over changes in the Delta Wetlands Seepage Control Plan to coordinate

or modify its terms for the protection of other legal users of water, fish, wildlife, instream beneficial uses, and the public interest as future conditions may warrant. The SWRCB delegates authority to the Executive Director of the SWRCB to take actions under this reservation of jurisdiction as set forth below.

(i) During the third year of Project operations, the MAB shall review the Delta Wetlands Seepage Control Plan to determine if changes in any of the Seepage Control Plan's terms are advisable. In its review, the MAB shall examine actual operation of the Project to date and any adverse effects of Project reservoir operations, including impacts on neighboring levees and islands. The MAB will base each of its recommended changes to Plan terms, if any, on its independent, professional judgment. At the conclusion of its review, the MAB shall issue a written list of its recommended changes, if any. The list shall be sent by the MAB to the SWRCB, Permittee, EBMUD, all Interested Parties who have notified Permittee as set forth in paragraph 9, and all parties to the Delta Wetlands SWRCB hearing ("Noticed Parties").

(ii) If Permittee, EBMUD, Noticed Parties and Interested Parties (as limited above) do not object to a change recommended by the MAB within 30 days of service of any proposed change, then the Executive Director of the SWRCB may approve the change without the need for a comment period or hearing. In the event of any objection, the SWRCB may only approve the change after it provides notice of and an opportunity to comment on the proposed change to Permittee, EBMUD, Noticed Parties and Interested Parties (as limited above). If requested by Permittee, EBMUD, a Noticed Party or an Interested Party (as limited above), the SWRCB may hold a hearing on the proposed change.

d. After its initial three-year review of the Delta Wetlands Seepage Control Plan as set forth above, the MAB may thereafter periodically review and change the terms of the Delta Wetlands Seepage Control Plan so long as the review and approval process set forth above is followed.

Dispute Resolution Procedure

8. Delta Wetlands and EBMUD set forth the following process to identify and remedy levee, seepage and related problems which may be caused by Project reservoir islands operations. The parties recognize, however, that in the event of an emergency, such as an imminent levee failure, there is a need for rapid action such that there may not be time for this process to take place. In the event of emergency, an Interested Party or reclamation district may notify Permittee of a problem by any available method.

9. Any entity or individual who may be injured by the reservoir operations of the Delta Wetlands Project ("Interested Party") may elect to seek a remedy through the Dispute Resolution Procedure set forth below. If such an Interested Party elects to utilize said Dispute Resolution Procedure, then the Interested Party shall notify Permittee and MAB in

writing of such election and shall be bound by all provisions set forth therein, including but not limited to paragraph 16.

10. Method of Notification: Except in cases of emergency, all notifications, determinations, completion notices, objections, and reports shall be in writing delivered by U.S. Mail, courier, messenger, facsimile or electronic mail. All written notifications, determinations, completion notices, objections, and reports must be signed by a registered engineer.

11. Notification of Problem: EBMUD, or any Interested Party that has elected to use the Dispute Resolution Procedure as set forth in paragraph 9, may notify Permittee of perceived problems caused by the Project, including but not limited to, indications of levee failure and/or seepage on Project reservoir islands or on adjacent islands. EBMUD or Interested Party shall hereafter be referred to as "Complainant."

    a. Contents of Notification: The Notification shall specify the type of problem identified, its location and when it was observed.

    b. Notification Sent to: The Notification shall be sent by Complainant to the SWRCB, Permittee, the MAB, and to the secretary of any reclamation district for land on which the identified problem is occurring.

12. Determination by Permittee: Upon receiving a written Notification pursuant to paragraph 11, Permittee shall investigate the problem. Within five working days of receiving said written Notification, Permittee shall provide a written Determination to the SWRCB, Complainant, the MAB, and to the secretary of any reclamation district to whom the Notification was sent.

    a. Contents of Determination: The Determination shall outline what actions Permittee took to investigate the identified problem, Permittee's conclusions as to the nature of the problem, an explanation of what remedial actions, if any, Permittee will take to correct the problem, and when any such remedial actions will be commenced and completed.

    b. Upon Permittee's completion of any such remedial actions, Permittee shall provide a written completion notice to the SWRCB, Complainant, the MAB, and the secretary of any reclamation district to whom the Notification was sent. The notice shall state what remedial actions were taken and when they were completed.

13. Objection to Permittee's Determination: In the event Complainant disagrees with all or part of Permittee's Determination, Complainant within five working days of receipt of Permittee's Determination, shall send to the SWRCB, Permittee, the MAB and to the secretary of any reclamation district to whom the Notification was sent, a written Objection to the Determination.

a. Contents of Objection: The Objection shall outline to which portions of the Determination Complainant objects and why. Complainant may also state its view of the problem and remedy.

14. MAB Report: Upon receipt of an Objection pursuant to paragraph 13, the MAB shall commence its own independent investigation of the matter. Permittee and/or Complainant may submit additional material to the MAB to assist in its investigation, so long as the other party is copied. If, in the opinion of the MAB, additional technical studies are necessary to its investigation, it may undertake or authorize such studies. The costs of any such studies shall be paid for as set forth in paragraph 6.

a. Within seven working days of receiving the written Objection, the MAB shall issue a written Report. Said Report shall be sent to the SWRCB, Permittee, Complainant and to the secretary of any reclamation district to whom the Notification was sent.

b. Contents of Report: The Report shall include the MAB's independent opinion on the nature of the problem, its recommendation on what remedial actions should be taken by Permittee to correct the problem, if any, and a schedule of when any such remedial actions should be commenced and completed by Permittee. The MAB shall only recommend remedial actions which address problems determined to be caused by Project reservoir operations though, if necessary, it may identify other causes only for explanatory purposes.

15. Permittee's Compliance with the Report: Permittee shall implement all recommended remedial measures listed in the MAB's Report by the deadlines included therein, and shall be solely responsible for the costs of said measures.

16. Frivolous Claims: If the Permittee believes the Complainant has filed a frivolous Notification pursuant to paragraph 11, then Permittee may, within fifteen days of receiving the MAB Report, request the MAB to determine whether the Notification by Complainant is totally and completely without merit (frivolous). If the Notification is determined to be frivolous, Complainant shall pay all costs and fees of investigating the claim incurred by the MAB.

17. Judicial Remedy: Nothing in these terms and conditions shall constitute a waiver of the rights of Permittee or Complainant to pursue judicial remedies in state court regarding an MAB Report.

Financial Assurances

18. The following four classes of financial assurances shall be required so long as the Project is owned by any party other than the state and/or federal government(s). In the event the Project is owned and operated by the state and/or federal government(s), then these provisions shall not apply. However, any governmental entity that purchases or leases the Project shall hold a financial reserve account for the Project that is sufficient to cover the annual costs of Project operations or shall provide equivalent assurances.

19. **Seepage and Monitoring Fund:** The parties wish to ensure that, prior to any diversions to storage on Bacon Island or Webb Tract in each and every year of Project operation, the Permittee have sufficient capital resources on hand to operate the seepage control and monitoring systems for the full year. To meet this objective, the following funding mechanism shall be utilized.

First Year of Operation. Prior to the first diversion to storage on a Project reservoir island, Permittee shall deposit, in an interest-bearing account in a financial institution licensed to do business in the State of California who will act as the escrow agent, with interest accruing to Permittee, $500,000 to be used for the first year's annual operating expenses of the Project's reservoir island seepage control and monitoring systems. Permittee may draw upon said monies over the course of the year only to cover routine incurred expenses for seepage control and monitoring on the two Project reservoir islands.

Following Years. Prior to the first diversion to storage on a Project reservoir island in each and every water year thereafter, Permittee shall deposit into said account a sum of money the MAB estimates, as provided below, will be required for the complete annual operating costs of the Project's reservoir island seepage control and monitoring systems for that upcoming water year. Permittee may draw upon said monies over the course of the water year only to cover routine incurred expenses for seepage control and monitoring on the two Project reservoir islands.

Estimate. No later than September 1 of each year, Permittee shall file with the MAB a written estimate of the amount of money required for the complete annual operating costs of the Project's reservoir islands seepage control and monitoring systems for the upcoming water year. (The water year shall be October 1 through September 30.) The MAB shall review that estimate and, in its own discretion, set an amount of money it estimates will be needed to operate the Project reservoir islands seepage control and monitoring systems for that upcoming water year. Said sum shall not be less than the prior year's actual seepage and monitoring costs. Permittee shall then deposit that amount of money in the designated account, as provided above.

Records. Permittee shall provide proof of deposit of the estimated annual seepage and monitoring costs to the MAB prior to the first diversion to storage on a Project reservoir island in each year of operation. Permittee shall maintain all books and records on the utilization of said account monies for each year of Project operation and shall submit to the SWRCB and MAB, no later than October 15 of each year, an accounting of how said monies were expended in the prior water year.

20. **Drawdown Fund:** The parties wish to ensure that, in the event Permittee abandons the Project or otherwise does not operate the Project after water has been diverted to storage on a Project reservoir island, there are sufficient capital resources on hand to empty the Project reservoir islands.

First Year of Operation. Prior to the first year of reservoir operations, Permittee shall deposit, in an interest-bearing account in a financial institution licensed to do business in the State of California who will act as the escrow agent, with interest accruing to Permittee, $1,000,000 to cover the expense of emptying the Project reservoir islands. Permittee may draw upon said monies over the course of the year to cover routine expenses of discharging water from the Project reservoir islands as part of normal operations.

Following Years. Prior to the first diversion to storage on a Project reservoir island in each and every water year thereafter, Permittee shall deposit into said account a sum of money the MAB estimates, as provided below, will be required for the complete annual operating costs of the Project's discharge operations for that upcoming water year. Permittee may draw upon said monies over the course of the water year only to cover routine incurred expenses for discharge of stored water on the two Project reservoir islands.

Estimate. No later than September 1 of each year, Permittee shall file with the MAB a written estimate of the amount of money required for the complete annual operating costs to discharge water from the Project reservoir islands for the upcoming water year. (The water year shall be October 1 through September 30.) The MAB shall review that estimate and, in its own discretion, set an amount of money it estimates will be needed to discharge water from the Project reservoir islands for that upcoming water year. Said sum shall not be less than the prior year's actual discharge costs. Permittee shall then deposit that amount of money in the designated account, as provided above.

Records. Permittee shall provide proof of deposit of the estimated annual discharge costs to the MAB prior to the first diversion to storage on a Project reservoir island in each year of operation. Permittee shall maintain all books and records on the utilization of said account monies for each year of Project operation and shall submit to the SWRCB and the MAB, no later than October 15 of each year, an accounting of how said monies were expended in the prior water year.

21. **Remedial Actions:** The parties wish to ensure that, in the event Permittee determines to take corrective actions in response to a Complainant's Notification or if the MAB recommends remedial actions to correct identified problems, Permittee will have sufficient capital resources on hand to implement those actions.

Prior to the first diversion to storage on a Project reservoir island, Permittee shall deposit, in an interest-bearing account in a financial institution licensed to do business in the State of California who will act as the escrow agent, with interest accruing to Permittee, $1,000,000. This fund shall be available for use by Permittee only to implement corrective actions in response to a Complainant's Notification or to implement remedial measures recommended by the MAB.

In the event this Remedial Action Fund is so used by Permittee, Permittee shall, prior to again diverting to storage on a Project reservoir island, deposit sufficient monies into said account so that its balance returns to its minimum required level. Its minimum required level shall be $1,000,000, as adjusted annually for inflation by the ENR Construction Cost Index

for San Francisco (ENR CCI-SF) for the life of the Project. In the event this Remedial Action Fund is not used by Permittee during ten years of reservoir operations, then such fund shall be canceled and the monies deposited shall revert back to Permittee.

Records. Permittee shall provide proof of deposit of the Remedial Action Fund to the MAB prior to the first diversion to storage on a Project reservoir island, and if the Remedial Action Fund is drawn upon, Permittee shall again provide proof of deposit of sufficient funds to maintain the balance at the minimum required level prior to again diverting to storage on a Project reservoir island. Permittee shall maintain all books and records on the utilization of said account monies for each year of Project operation and shall submit to the SWRCB and the MAB, no later than October 15 of each year, an accounting of how said monies were expended in the prior water year.

22. **Insurance:** The parties wish to ensure that in the event of damage caused by the Project, sufficient capital resources are available to reimburse damaged parties.

Permittee shall take out and maintain, during the life of the Project, General Liability Insurance that provides protection from claims that may arise from Project reservoir islands operations. Permittee shall annually submit certificates of said insurance to EBMUD. The policy shall not be cancelled or materially altered unless 30 days' written notice is given EBMUD. The amounts of insurance coverage shall not be less than $25,000,000/ Occurrence, Bodily Injury, Property Damage - General Liability.

ATTACHMENT C
DELTA WETLANDS SEEPAGE CONTROL PLAN

I. INTRODUCTION

A. Description of Seepage

The Delta Wetlands ("DW") Project consists of four islands. Water will be stored on the two reservoir islands (Bacon Island and Webb Tract) up to elevation +6 feet. On the habitat islands (Bouldin Island and Holland Tract), water levels will be managed for a range of crops and habitats, some of which include shallow flooding. DW intends to control groundwater in the vicinity of its reservoir islands in such a way that there is no seepage beyond that which would be produced by other uses of the DW reservoir islands currently allowed (such as intensive agriculture or shallow flooded wetlands). Controlling seepage to within these limits is referred to as "no net seepage impact".

The method by which a reservoir on Bacon Island and/or Webb Tract could create a seepage impact on an adjacent island is flow through a connecting sand aquifer extending beneath both islands. Seepage flowing from one island to the next will raise the hydrostatic head in the aquifer beneath the neighboring (receiving) island. The presence or absence of a connecting aquifer is not known at many locations. If there is a connecting aquifer and if seepage is occurring from a reservoir island through the aquifer to a neighboring island, the hydrostatic head in the aquifer beneath the neighboring island will rise and fall with the filling and emptying of the reservoir. DW will monitor the hydrostatic head in the aquifers beneath neighboring island levees to check that no seepage is occurring from DW Reservoirs. Several types of "wells" are used to control and monitor seepage. Their definition and relative location are shown on Figure C-1 (attached).

B. Groundwater Monitoring Wells

Two suites of groundwater monitoring wells will be installed.

To check whether the reservoir water level on Bacon Island or Webb Tract is affecting an adjacent island, Permittee will install seepage monitoring wells along a neighboring island's perimeter directly across from the Bacon Island and Webb Tract Reservoir islands.[1] These will be the primary tool for detecting seepage from a reservoir island. If water stored on a DW reservoir island creates added seepage toward a neighboring island, the increased hydrostatic head that would be part of the seepage can be measured in monitoring wells penetrating the aquifer transmitting the water.

To check the overall groundwater behavior in the Delta, unrelated to operation of the DW Project, a series of background monitoring wells will be installed at locations sufficiently far removed from the Bacon Island and Webb Tract reservoirs as to not be influenced by water storage

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[1]The installation of monitoring wells is subject to the approval of the neighboring island owner(s). If approval is unreasonably withheld, alternative locations will be utilized.

within the reservoirs. The measured groundwater levels will be normalized (as described below) and averaged to develop an overall characterization of the groundwater trends in the central portion of the Delta.

C. Pre-Project Baseline

To collect baseline[2] data on the overall groundwater system performance as it relates to agricultural practices or wetlands management, the groundwater monitoring wells (both seepage monitoring wells and background monitoring wells) will be monitored by DW continually for at least one year prior to the start of reservoir filling. The same measurements will be taken by DW year round, once the Project is implemented.

D. Detecting Seepage

To assess whether filling Bacon Island or Webb Tract may be impacting the groundwater level beneath neighboring islands, the groundwater levels in the seepage monitoring wells beneath adjacent islands will be compared by DW to the baseline records at those same locations. Concurrently, the overall groundwater performance of the Delta will be measured by DW in the background monitoring wells. Those locations showing increases above baseline range (adjusted for extreme variations in overall Delta groundwater performance), that coincide with filling the reservoir, will be the basis for suspending water diversion onto the nearby reservoir island. Details regarding how the various data will be compared are described in Section III set forth below. The above monitoring observations will be made on a continuing basis, allowing DW to observe the start of trends that may indicate possible seepage from the reservoirs. The goal of DW is to be proactive and to make needed groundwater control adjustments far in advance of the Diversion Suspension Limits.

E. Initial Stage Filling of Reservoirs

When the Project first begins to operate, water storage will be implemented on a vertical stage-filling basis. Water within the reservoir will first be brought to a fairly low level, not more than 25% of storage capacity, and held constant for a period of time until sufficient data are collected to verify that no net seepage impacts are occurring on neighboring islands. If impacts are found that require controlling measures, filling of the reservoir will be put on hold until appropriate measures can be brought on line so as to not cause additional risk to neighboring island levees. Such actions could include increasing the pumping capacity of interceptor wells, installing additional interceptor wells, installing relief wells on a neighboring island, and/or other mitigation that may be agreed upon among DW, the adjacent landowners, and the reclamation districts.

If impacts are not detected, the reservoir will be further filled to the next vertical stage (approximately 50% of reservoir capacity) and again held constant to allow adequate time for data collection and assessing of possible seepage impacts. This cycle of staged-filling, monitoring

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[2]"Baseline" data refer to data collected prior to the first filling of the reservoir islands. The baseline may be updated during subsequent years of no water storage on the reservoir islands.

seepage, assessing impacts, and correcting impacts will be repeated until the reservoir can be safely brought to full operational level with suitable seepage control measures in place.

F. Routine Operations

The reservoirs will commonly begin filling in late fall to early winter. Both prior to and during filling, the groundwater levels in the seepage monitoring wells will be carefully tracked by DW. The interceptor wells will begin to operate as the reservoir level is raised. Pumping rates will be increased as the pool elevation in the reservoir is raised. All this time, the seepage monitoring wells will be tracked and serve as a control for adjusting the interceptor well pumping rates. The interceptor wells will be pumped such that the water levels in the seepage monitoring wells are kept near the normal seasonal levels.

DW will continually evaluate the efficiency of the interceptor wells to verify that there is sufficient additional capacity to allow the pool elevation to continue to be raised. If the efficiency of a well drops off such that the ability of the well to pump greater volumes of water is in question, DW will redevelop the well to improve its efficiency prior to approaching the well's limits. If additional capacity is not readily available from an existing well, a new well can be drilled to increase the pumping capacity at the reservoir island's perimeter.

The reservoir pool elevation will lower as water is later exported into the adjacent slough or river. As the pool elevation decreases, the pumping rates from the interceptor wells will be gradually lowered, with the goal of keeping the water levels in the neighboring islands seepage monitoring wells near their normal seasonal levels.

During the period with little to no water storage, a thorough evaluation of the efficiency of the wells will be undertaken by DW to identify those wells that may show signs of decreasing efficiency and may be susceptible to overstressing during the following season's storage cycle. The need for additional wells will also be evaluated. To the extent practical, redevelopment of existing wells and installation of additional wells will occur during the off-season.

II. LOCATIONS OF GROUNDWATER MONITORING WELLS

A. Background Monitoring Wells

At least twenty-five (25) background monitoring wells will be sited by DW at an appropriate distance from the reservoir islands. These background monitoring wells will be at least one mile from a reservoir island and most likely will be greater than 11/2 miles from a reservoir island. Recommended typical locations of background monitoring wells are shown on Figure C-2. The purpose of these background monitoring wells is to monitor regional groundwater elevations beyond the reasonable influence of the DW reservoir islands.

B. Seepage Monitoring Wells

At least 100 seepage monitoring wells will be placed on or near levees directly opposite the perimeter of the reservoir islands. The five neighboring islands around the south half of Bacon

Island are Lower Jones Tract, Upper Jones Tract, Woodward Island, Orwood Tract and Palm Tract. Around the northern half of Bacon Island are Holland Tract, Little Mandeville Island (currently flooded), Mandeville Island and Mildred Island (currently flooded). Around Webb Tract are Bradford Island, Twitchell Island, Brannan/Andrus Island, Bouldin Island, Venice Tract, Mandeville Island, Franks Tracts (currently flooded), and Little Franks Tract (currently flooded).

Passing across Upper Jones Tract, Woodward Island and Orwood Tract is the Mokelumne Aqueduct, a critical structure. Flooding on any of the five neighboring islands (Lower Jones Tract, Upper Jones Tract, Woodward Island, Orwood Tract and Palm Tract) around the southern half of Bacon Island may increase the risk of service disruption for the aqueduct. The shortest distance between the levee on the southern half of Bacon Island and a neighboring island levee (centerline to centerline) is about 700 feet. A seepage monitoring well spacing of 1,500 to 2,000 feet on a neighbor island levee will provide essentially full coverage of a continuous aquifer at these distances. However, allowing for an importance or risk factor associated with the Mokelumne Aqueduct, DW will use minimum seepage monitoring well spacings of 500 to 1,000 feet for center-to-center levee distances of between 700 to 1,200 feet. For levees beyond a distance of 1,200 feet from a Bacon Island levee, seepage monitoring well spacing will be 1,500 to 2,000 feet. The approximate locations for seepage monitoring wells are shown on Figure C-3.

C. Other Water Level Monitoring

Reservoir stage recording stations will be established within Bacon Island and Webb Tract to document the water surface elevations in the reservoirs. A river stage recording station will be established on the outside perimeters of Bacon Island and Webb Tract to document the water surface elevations in the surrounding rivers and sloughs.

III. EVALUATION OF GROUNDWATER MONITORING WELL DATA

A. Collecting Data Prior to Filling Reservoir and Developing Reference Envelopes

Groundwater monitoring wells (both seepage and background monitoring wells) will be installed by DW at least one year prior to commencement of reservoir filling. Groundwater levels will be recorded using automatic data loggers, measuring and recording the groundwater elevation at least once each hour. The groundwater elevations recorded each day will be averaged to compute the mean groundwater elevation each day ("daily mean") at each groundwater monitoring well location (see Figure C-4). This "daily mean" value will be the primary data used by DW in assessing whether seepage impacts are occurring.

At least one year of groundwater elevation data will be collected from the groundwater monitoring wells prior to the filling of a DW reservoir island. These baseline data will be used as a measure of the initial conditions at these individual groundwater monitoring well locations.

Using the daily means as the data, the annual mean will be computed for each groundwater monitoring well (see Figure C-5). The daily means will be compared with the annual mean and the standard deviation of the difference between the daily means and the annual mean will be computed

for the baseline period. A reference envelope will be developed that is two standard deviations above and below the annual mean for each groundwater monitoring well.

B. Background Monitoring Wells

Data will be collected by DW from background monitoring wells over the same time period as data are collected for the seepage monitoring wells located directly across sloughs from the reservoirs. Daily means of the water level elevations will be calculated for each background monitoring well. Reference envelopes will be computed using at least one full year of pre-reservoir groundwater data to identify plus and minus two standard deviations relative to the annual mean.

After the two standard deviation reference envelopes are created for each background monitoring well for the baseline (pre-reservoir filling) period, subsequent daily mean data for each background monitoring well will be compared with its reference envelope, Figure C-6a. To normalize the data, the lower reference line value will be subtracted from the daily mean. The algebraic difference will then be divided by the height of the envelope (plus or minus two standard deviations). The daily mean for each background monitoring well will be reported as a percent of its envelope height, Figure C-6b. A normalized plot will be prepared comparing the current background groundwater data to the height of the plus or minus two standard deviation baseline envelope for the same well and presented as a percentage of its envelope, Figure C-6c.

The above computed normalized percentage results from each of the background monitoring wells will be combined with the results for all other background wells and averaged for each day. They will be plotted versus time, with the hydraulic head expressed as a percent of the background groundwater monitoring wells' reference envelopes, Figure C-6d. The intent of this last plot is to track general groundwater variations that may be occurring in the central portion of the Delta but that are unrelated to water stored by the Project.

DW anticipates that this plot will show increases in groundwater levels during sustained periods of locally heavy rainfall and low evapotranspiration and during higher water levels in the rivers and sloughs as a flood stage passes through. Many fields are flooded from mid-fall to winter for a variety of reasons. This shallow flooding will also be detected. Low background groundwater levels are expected during late spring through early autumn when evapotranspiration is high and rainfall negligible.

Individual seepage monitoring wells or groups of seepage monitoring wells showing similar responses to those indicated by the average background conditions will indicate that the individual seepage monitoring wells or groups of seepage monitoring wells are responding to the same regional conditions that are affecting the background monitoring wells.

C. Reservoir Stages

Reservoir stage will be measured by DW within the reservoir islands. The daily means of reservoir stage will be computed and recorded. The reservoir stage daily mean will be shown on a graph of pool elevation versus time, similar in format to the daily mean groundwater elevation plots for groundwater monitoring wells.

D. River and Slough Stages

River and slough stage will be measured by DW and daily means computed. The daily mean of slough and river stage will be shown on a graph of water surface elevation versus time, similar in format to the daily mean groundwater elevation plots for groundwater monitoring wells.

E. Limiting Conditions Using Groups of Groundwater Monitoring

1. General

If the groundwater in a group of three or more contiguous seepage monitoring wells located on neighboring islands surrounding a reservoir island rises more than 0.25 foot above their upper bound envelopes of baseline data and if the timing of the increase correlates with the filling of the reservoir or storage of water in the reservoir (adjusted for changes in the daily means for the background groundwater monitoring wells), the reservoir filling will be stopped. This limiting condition is referred to as the Diversion Suspension Limit. Reservoir filling will not resume until the increased hydrostatic head condition is corrected or otherwise satisfactorily remediated. The details of this evaluation are described below.

2. Correlation with Local Activities

If an individual background monitoring well exceeds its upper base data reference envelope, then the land use practices in the general vicinity of each groundwater monitoring well will be checked to see if the irrigation and/or drainage practices have recently changed. Some groundwater variations may result from changes in land management practices, including irrigation patterns, shallow flooding for leaching the soil and suspension of ditch maintenance for land in a set-aside program. Activities in the nearby river or slough will also be checked. Dredging of rivers or sloughs can have substantial impacts on groundwater levels. DW will contact and query reclamation districts on dredging activity or other substantial marine activity near their islands if a marked increase in groundwater levels is observed.

3. Regional Corrections

The background monitoring well data will track the regional variations occurring in the groundwater levels beyond the influence of the reservoir islands. This evaluation will be both qualitative and quantitative. There is considerable imprecision in attempting to correlate one or more seepage monitoring wells with another well, including the background monitoring wells. DW will use a quantitative correction to the extent that the average background condition is above 80% of the full height of the background reference envelope, shown in Figure C-7a. The additional percentage above the 80% level in the background monitoring wells will be multiplied by the plus or minus two standard deviation baseline envelope for each seepage monitoring well. The resulting product will be added to the upper envelope for each seepage monitoring well as shown in Figure C-7b.

4. Initial Evaluation

The daily mean will be computed by DW for each individual seepage monitoring well for the period of time under consideration (referred to as "current" data). The current data for each seepage monitoring well will be compared with the reference (baseline) envelope for the same groundwater monitoring well. (The reference envelope will have been prepared based on a pre-reservoir-filling period as described above in section III.A and adjusted for average changes in background groundwater levels described in the previous paragraph.)

For each seepage monitoring well in the group, the difference between the current groundwater level and the upper envelope will be computed (see Figure C-8). The differences will be averaged for three or more contiguous seepage monitoring wells. The Diversion Suspension Limit for a group of three or more wells will be defined as exceeding the average difference between the current data and upper reference envelopes by 0.25 feet or more, contingent on the conditions in the following sections.

5. Correlation with DW Activities

Finally, the variation over time for the average of the differences between the current data and the upper envelope for the group of wells under consideration will be compared by DW with the changes in reservoir stages (and interceptor pumping rates) over the same period. This comparison will be used to check whether there is a correlation between the reservoir pool elevation and the measured increased head at the groundwater monitoring wells. If the increased head in the groundwater monitoring well correlates with the fluctuations in reservoir pool elevation and the average increase is 0.25 feet above the envelope after adjustments, this will define the Diversion Suspension Limits. DW will be required to suspend diversions of water into the reservoir and to implement measures to lower the groundwater level at the neighboring island perimeters facing the reservoir island. DW will not be allowed to resume diversions until the indicated seepage is resolved.

F. Limiting Conditions Using Individual Groundwater Monitoring Wells

The following procedure will be used by DW to assess whether an individual groundwater monitoring well on a neighboring island is being impacted by water storage on a reservoir island.

1. The daily mean for an individual groundwater monitoring well will be plotted for a current year against time. The current data will be compared with the reference envelope for this groundwater monitoring well. (The reference envelope will have been prepared based on a pre-reservoir filling period as described in section III.A. and adjusted for average changes in background levels as described in section III.E.3.) If the current water level is less than or equal to one foot above the upper reference line, no action will be indicated based on the single groundwater monitoring well data. If the current groundwater level is greater than one foot above the upper reference line, a seepage impact may be indicated, and the evaluation will continue to the following steps.

2. The land use practices in the general vicinity of the individual groundwater monitoring well, including flooding fields and dredging in the river or slough, will be checked to see if practices have changed as discussed in the previous section.

3. The variation of the individual groundwater monitoring well's daily means will be compared with the changes in reservoir stages recorded over the same period of time and/or marked decreases in interceptor well pumping across from the groundwater monitoring well. If the increased head in the groundwater monitoring well correlates with the fluctuations in reservoir pool elevation (or with marked decreases in interceptor well pumping rates) and the head in the aquifer is more than one foot above the adjusted upper reference envelope, this will be a Diversion Suspension Limit, and DW will be required to suspend diversions of water into the reservoir island. DW will not be allowed to resume diversions into that reservoir island until the indicated seepage is resolved.

G. Future Modifications

The methods described herein are intended to provide a rational and responsive evaluation of changes in groundwater levels and seepage that may be attributed to water storage on Bacon Island and Webb Tract. These methods have been assessed using samples of data collected during the initial groundwater monitoring program previously conducted by DW. If, after implementation of this procedure deficiencies are discovered, EBMUD and/or DW will report such deficiencies to the Monitoring and Action Board for consideration as set forth in paragraph 7.c of Attachment B to the EBMUD and DW Protest Dismissal Agreement.

H. Data Availability

Delta Wetlands will make the following groundwater data publicly available on the internet or similarly accessible means as soon as readily available:

- Daily mean of groundwater level in each seepage and background monitoring well, reference envelope, and any Project adjustments based on background monitoring wells.
- Average normalized groundwater level for all background monitoring wells, presented as a percentage of their reference envelopes.
- Daily mean of pool elevations for both reservoirs.
- Daily mean of water level in slough/river.

Delta Wetlands will also maintain a historical database of the above information.

IV. ACTIONS BY DELTA WETLANDS

Delta Wetlands shall take actions to control seepage. These actions may include the following, and are intended to be taken before seepage reaches the Diversion Suspension Limits.

1. Increase pumping rates in interceptor wells.

2. Lower outfall head at relief wells.

3. Redevelop interceptor wells to improve specific capacity of the wells.

4. Redevelop relief wells to improve specific capacity.

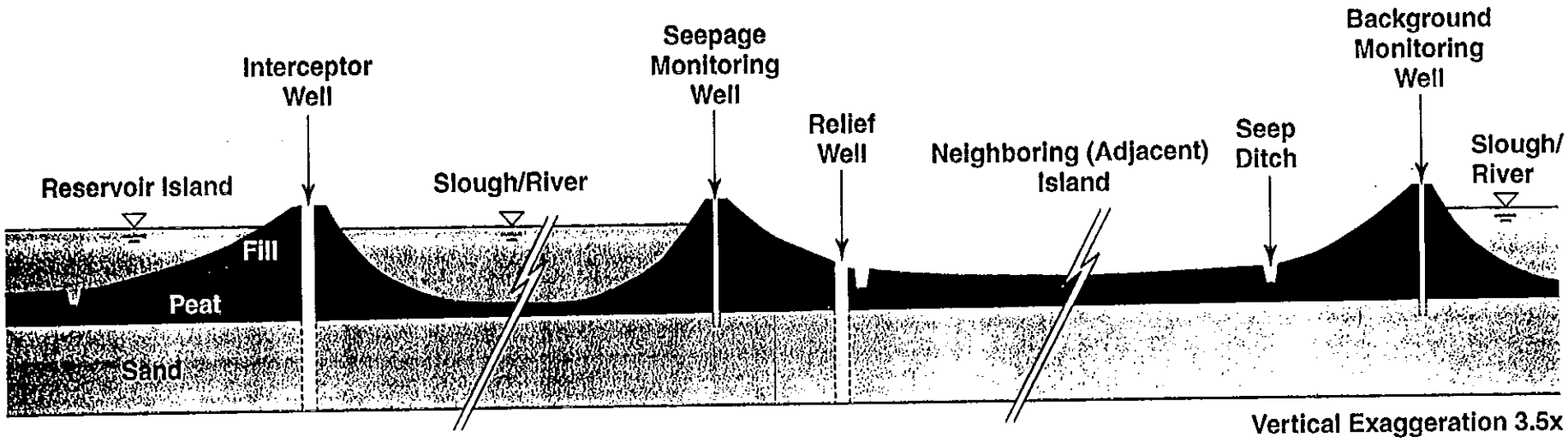
5. Install additional interceptor wells.

6. Install additional relief wells.

7. Implement other mitigation that may be mutually agreeable between Delta Wetlands, the affected adjacent landowners and the neighboring island reclamation district.

8. Stop diversion.

If the Diversion Suspension Limits are reached, DW shall immediately suspend additional water diversion into the reservoir island. Diversions may not renew until groundwater levels are brought below the Diversion Suspension Limits. If DW cannot lower the groundwater to below Diversion Suspension Limits within one week, the reservoir pool elevation shall be lowered at a rate of at least 0.5 feet per day until groundwater levels fall below Diversion Suspension Limits.



Groundwater Monitoring Wells

Seepage Monitoring Wells - Placed at the perimeter of an adjacent island, seepage monitoring wells will detect increased groundwater elevation if increased seepage occurs from slough or reservoir island.

Background Monitoring Wells - Placed far from reservoir islands, often on the far opposite perimeter of an adjacent island. Background monitoring wells will be used as a group to record Delta-wide variations in groundwater levels.

Groundwater Extraction Wells Note: All extraction wells, whether interceptor wells or relief wells, will have slotted screens extending through the full depth of the underlying aquifer.

Interceptor Wells - Pumped wells placed on the perimeter of a resevoir island. The pumping rate will be controlled to essentially capture all water tending to seep from beneath the reservoir perimeter.

Relief Wells - Placed at toe of adjacent island levee. Elevations of the tops of wells will be set such that the wells flow as artesian wells as groundwater surface rises. Where groundwater is not artesian, low head pumps may be used.

Figure C-1
Idealized Cross Section of Well Locations

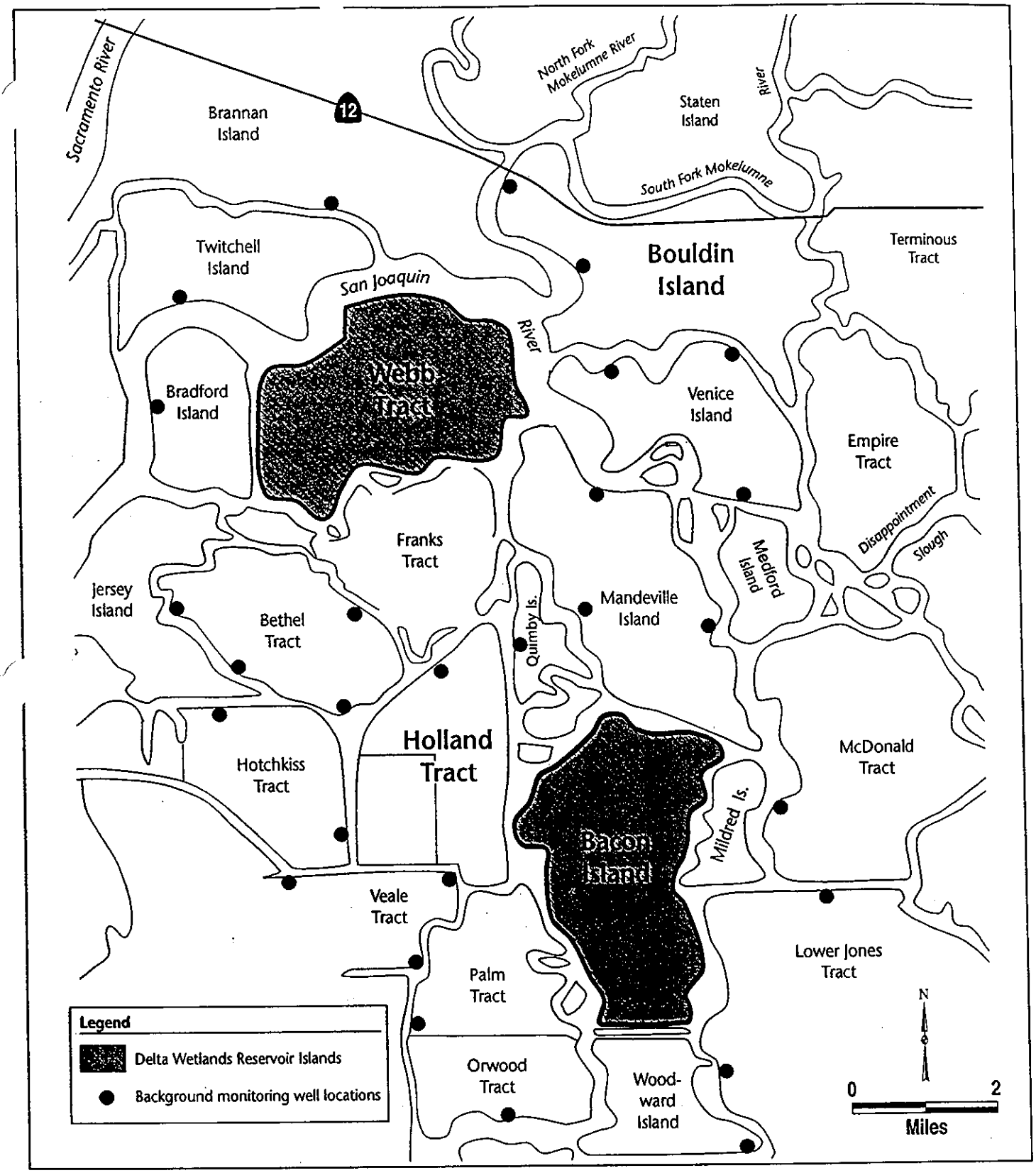


Figure C-2
Approximate Locations of Background Monitoring Wells

Exhibit DW-103

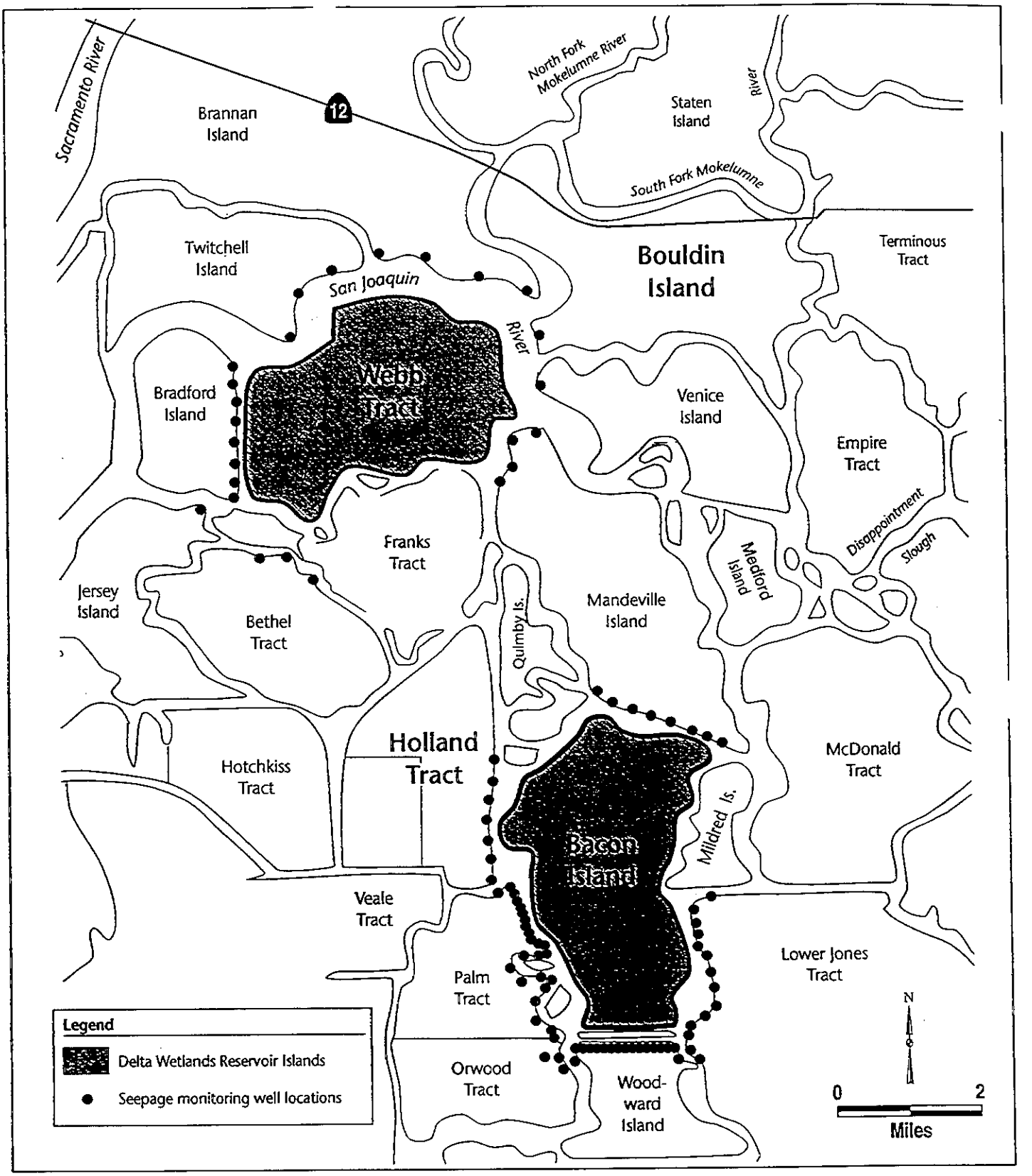


Figure C-3
Seepage Monitoring Well Locations

Exhibit DW-103

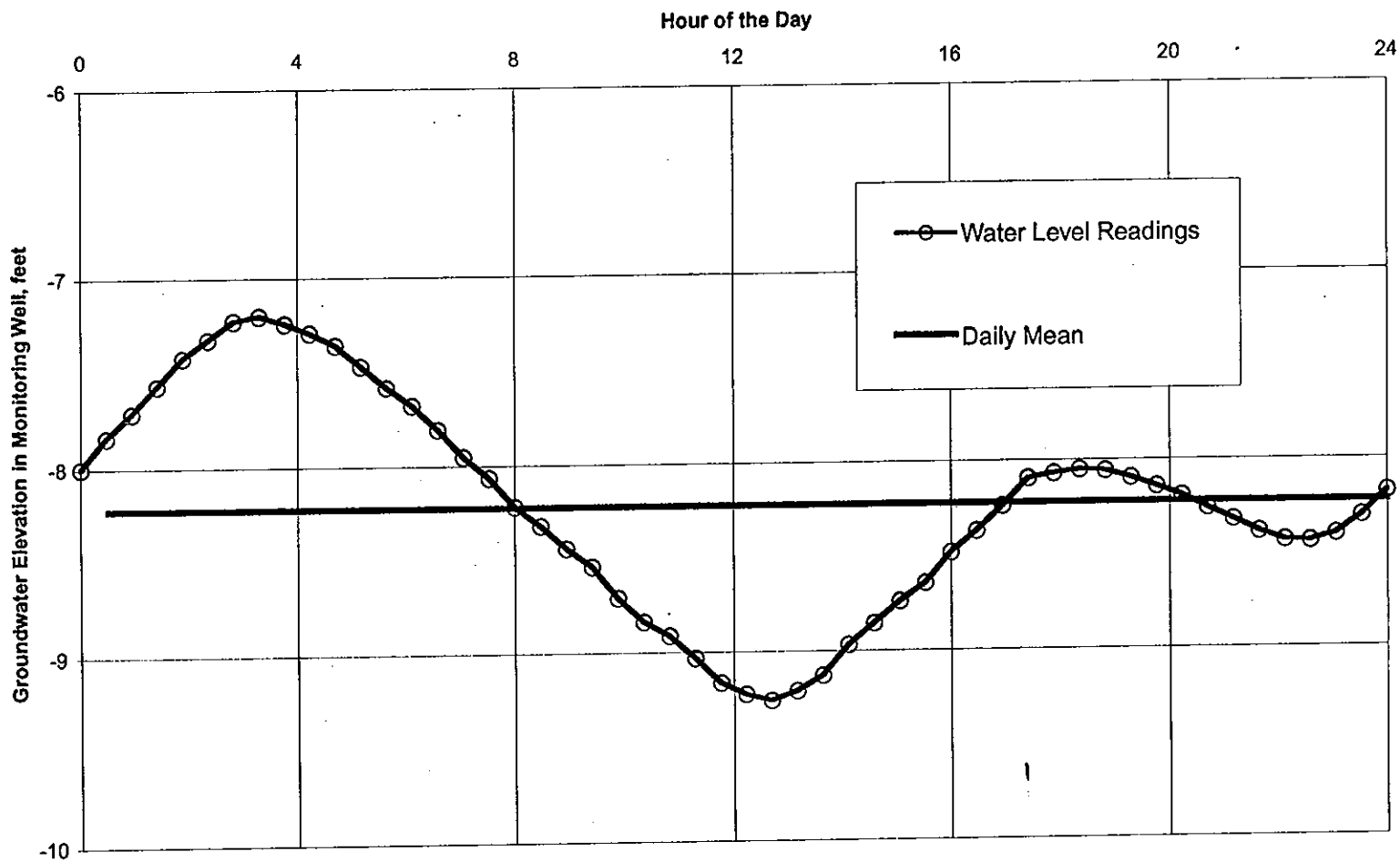
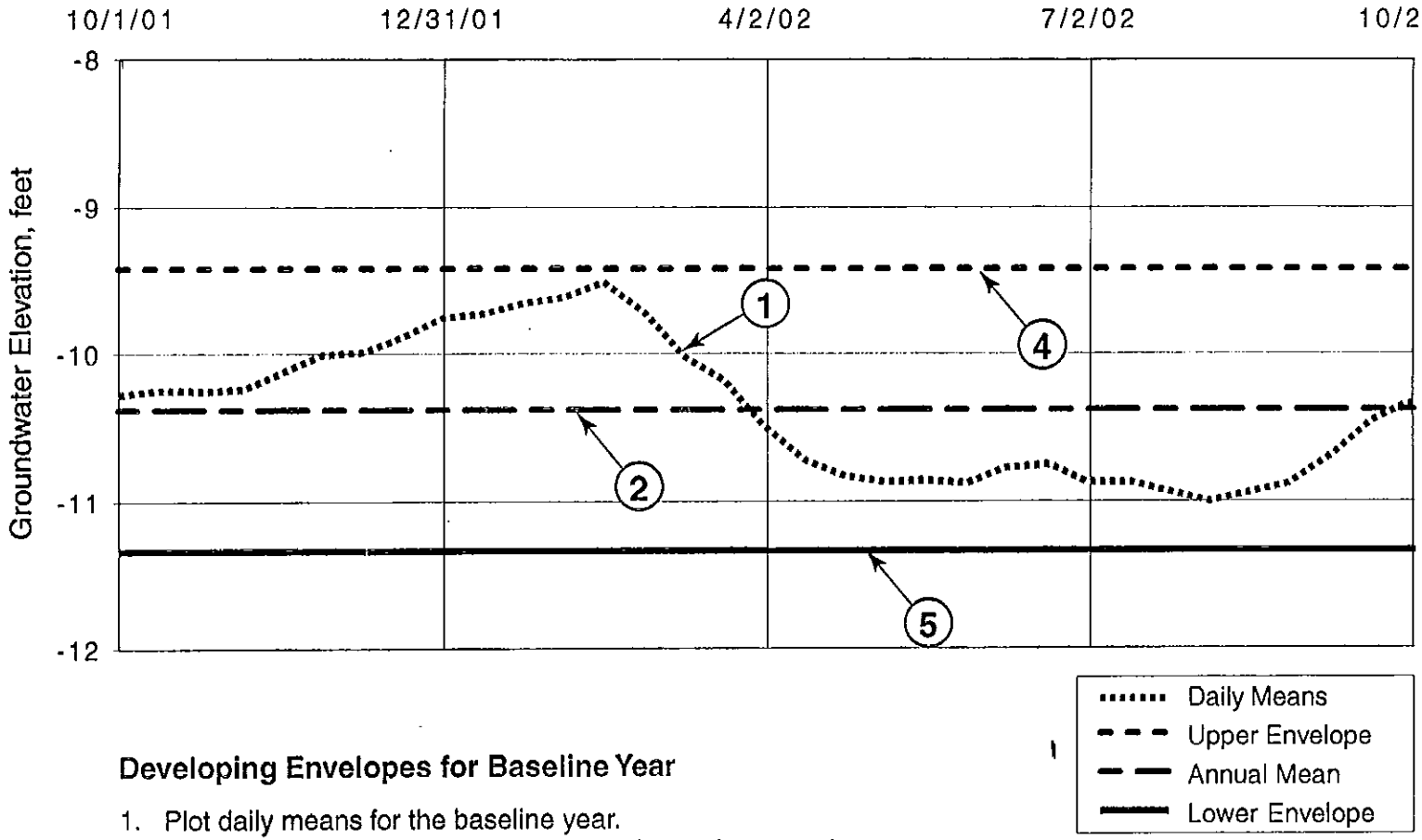


Figure C-4
Daily Mean

Exhibit DW-103



Developing Envelopes for Baseline Year

1. Plot daily means for the baseline year.
2. Compute average of daily means and plot as the annual mean.
3. Compute standard deviations of daily means around annual mean.
4. Compute and plot upper envelope as annual mean plus two standard deviations.
5. Compute and plot lower envelope as annual mean minus two standard deviations.

Figure C-5
Reference Envelope for Baseline Year

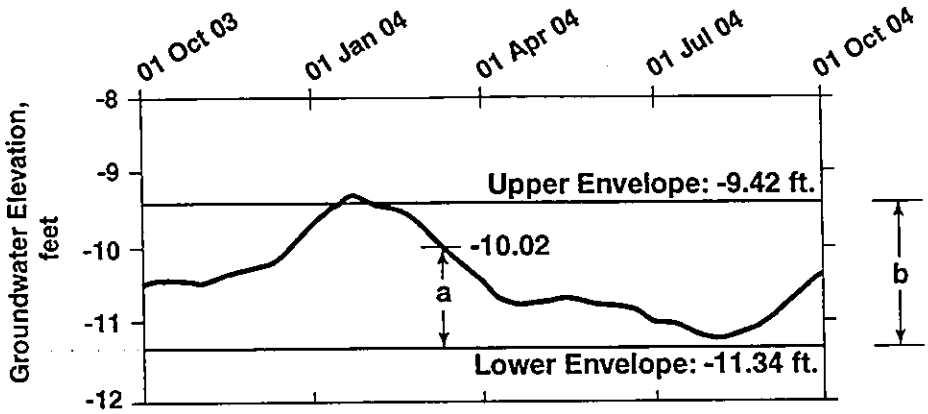


Figure C-6a. Background Monitoring Well Data for a Single Well

To normalize background monitoring well data to its unique envelope, subtract the lower envelope elevation from the daily mean and divide the remainder by the height of the envelope:

$$a/b = [(-10.02) - (-11.34)] / [(-9.42) - (-11.34)] = 65\%$$

Figure C-6b. Computation for Normalizing Background Monitoring Well Data

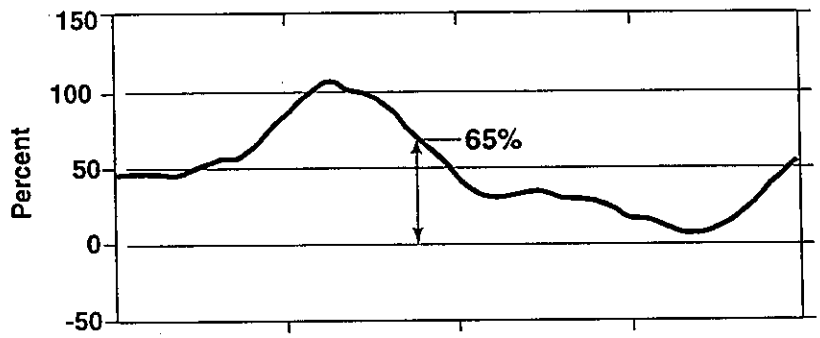


Figure C-6c. Plot of Normalized Background Monitoring Well Data for a Single Well

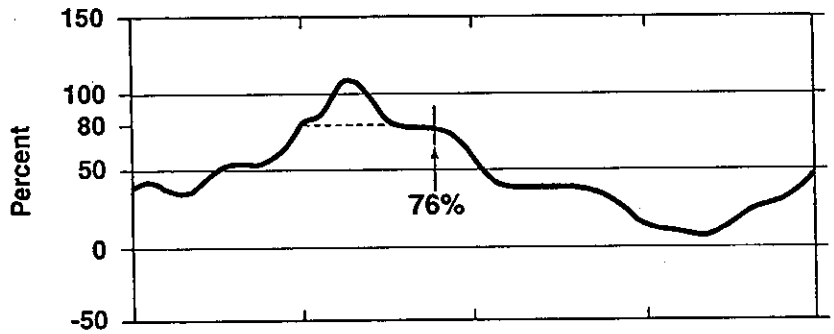


Figure C-6d. Average of Normalized Data for All Background Monitoring Wells

Figure C-6
Normalizing and Averaging Background Well Data

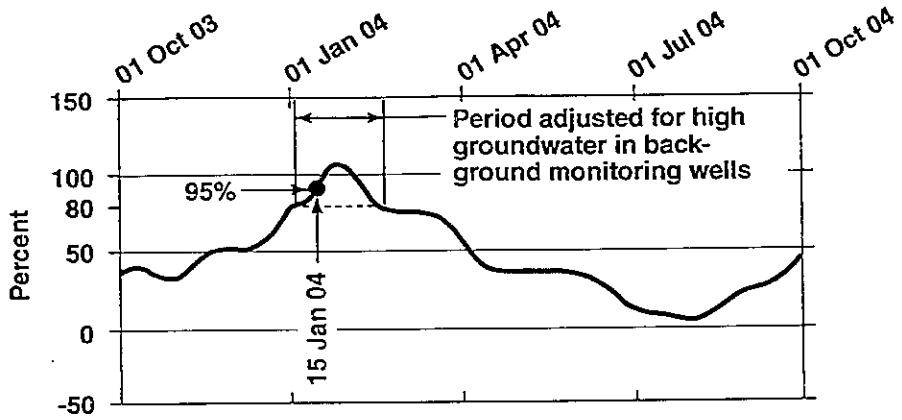


Figure C-7a. Average Normalized Data for All Background Monitoring Wells

On January 15, 2004, the average normalized data from the background monitoring well is 95%. At Seepage Monitoring Well A, the groundwater is at elevation -13.59 feet. To adjust Seepage Monitoring Well A's upper envelope for high groundwater conditions in the background monitoring wells:

1) Subtract 80% from the average for the background conditions:
95% - 80% = 15%

2) Multiply the height of Seepage Monitoring Well A's envelope by the above percentage remainder:
[(-13.84) - (-14.96)] x 15% = 0.17 ft.

3) Add the above product to the upper envelope:
-13.84 + 0.17 = 13.67 ft.

4) The above value is the adjusted upperbound envelope for this particular well on the particular day.

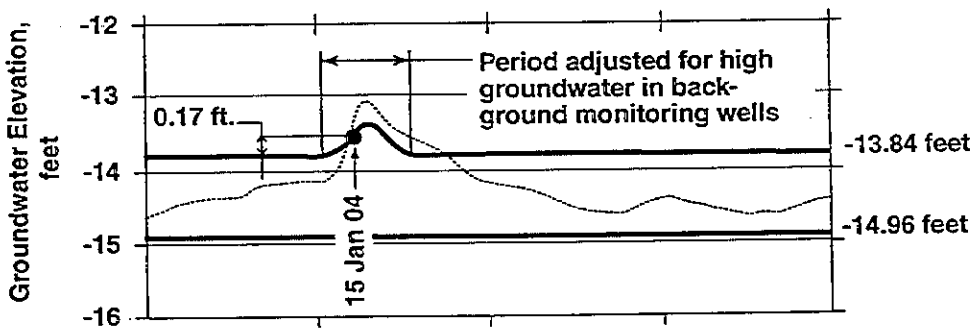
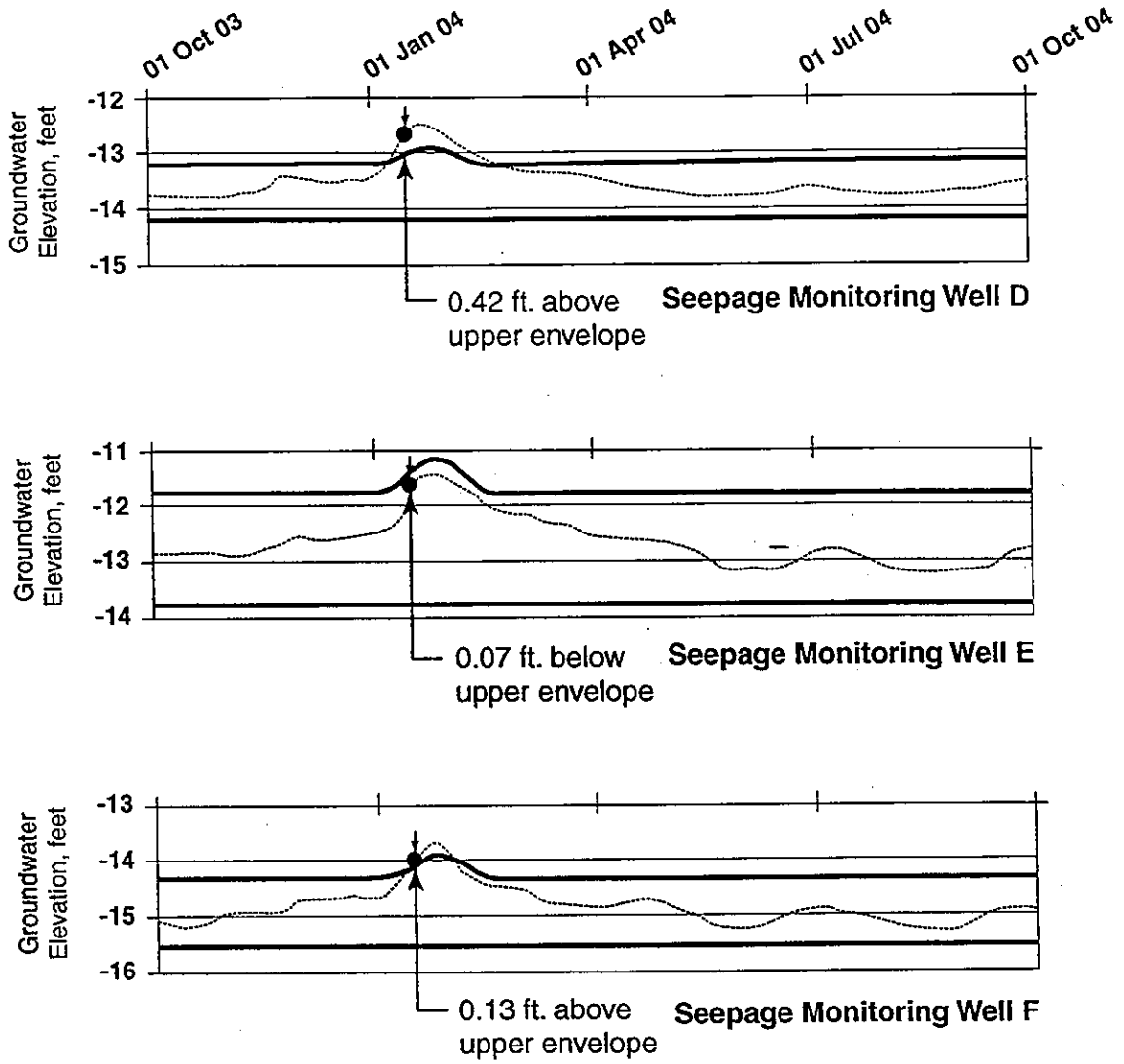


Figure C-7b. Upper Envelope of Seepage Monitoring Well A Corrected for High Groundwater in Background Monitoring Wells

Figure C-7
Correcting Upper Envelope for High Groundwater



Well No.	Groundwater Height Above Upper Envelope
D	0.42
E	-0.07
F	0.13
	0.48 ft ÷ 3 wells = 0.16 ft.

On January 15, 2004, the average groundwater height above upper envelopes for 3 wells is 0.16 ft. If the average is less than 0.25 feet above the upper envelope, the average groundwater level for these three wells is below the diversion suspension limit.

Figure C-8
Groundwater Evaluation Using Three Seepage Monitoring Wells

Exhibit DW-103